

1
2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 RONALD ALLISON,

7 Plaintiff,

8 v.

9 CLARK COUNTY DETENTION CENTER
10 MEDICAL DEPARTMENT,

11 Defendant.

Case No. 2:21-cv-00165-RFB-BNW

ORDER

12 On February 16, 2021, this Court issued an order directing Plaintiff to file a
13 complaint and a fully complete application to proceed *in forma pauperis* or pay the full
14 filing fee of \$402 on or before April 12, 2021. (ECF No. 3 at 2). On March 5, 2021, the
15 Court received a returned mail receipt indicating the Court's order at ECF No. 3 was
16 undeliverable. (ECF No. 4). The April 12, 2021 deadline has now expired and Plaintiff
17 has not updated his address with the Court or filed a complaint, an application to proceed
18 *in forma pauperis*, paid the full \$402 filing fee, or otherwise responded to the Court's order.

19 District courts have the inherent power to control their dockets and “[i]n the
20 exercise of that power, they may impose sanctions including, where appropriate . . .
21 dismissal” of a case. Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831
22 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure
23 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
24 See Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for
25 noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir.
26 1992) (affirming dismissal for failure to comply with an order requiring amendment of
27 complaint); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal
28 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of

1 address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
2 dismissal for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421,
3 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with
4 local rules).

5 In determining whether to dismiss an action for lack of prosecution, failure to obey
6 a court order, or failure to comply with local rules, the court must consider several factors:
7 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
8 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
9 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
10 See Thompson, 782 F.2d at 831; Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at
11 130; Ferdik, 963 F.2d at 1260-61; Ghazali, 46 F.3d at 53.

12 Here, the Court finds that the first two factors, the public's interest in expeditiously
13 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
14 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
15 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
16 in filing a pleading ordered by the court or prosecuting an action. See Anderson v. Air
17 West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
18 disposition of cases on their merits—is greatly outweighed by the factors in favor of
19 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
20 the court's order will result in dismissal satisfies the "consideration of alternatives"
21 requirement. Ferdik, 963 F.2d at 1262; Malone, 833 F.2d at 132-33; Henderson, 779
22 F.2d at 1424.

23 The Court's order requiring Plaintiff to file an application to proceed *in forma*
24 *pauperis* or pay the full filing fee on or before April 12, 2021 expressly stated: "IT IS
25 FURTHER ORDERED that if Plaintiff does not file a complaint and a fully complete
26 application to proceed *in forma pauperis* with all three documents or pay the full \$402
27 filing fee for a civil action on or before April 12, 2021, this case will be subject to dismissal
28 without prejudice for Plaintiff to refile the case with the Court, under a new case number,

1 when Plaintiff has all three documents needed to file a complete application to proceed
2 *in forma pauperis* or pays the full \$402 filing fee." (ECF No. 3 at 3). Thus, Plaintiff had
3 adequate warning that dismissal would result from noncompliance with the Court's order
4 to file a complaint and an application to proceed *in forma pauperis* or pay the full \$402
5 filing fee on or before April 12, 2021.

6 IT IS THEREFORE ORDERED that this action is dismissed without prejudice
7 based on Plaintiff's failure to file a complaint and an application to proceed *in forma*
8 *pauperis* or pay the full \$402 filing fee in compliance with this Court's order dated February
9 16, 2021. (ECF No. 3).

10 IT IS FURTHER ORDERED that the Clerk of Court shall enter judgment
11 accordingly and close this case.

12 IT IS FURTHER ORDERED that the Plaintiff may move to reopen this case and
13 vacate the judgment by filing a motion for reconsideration of this order. In this motion, the
14 Plaintiff would need to explain that circumstances which led to him not being able to
15 update his address as directed by the Court. If the Court finds there is good cause or a
16 reasonable explanation for the failure to update the address, the Court will reopen the
17 case and vacate the judgment.

18
19 DATED: June 3, 2021

20 
21 _____
22 RICHARD F. BOULWARE, II
23 UNITED STATES DISTRICT JUDGE
24
25
26
27
28